APPENDIX

IN THE UNITED STATES COURT OF CLAIMS

No. 50027

PENNSYLVANIA RAILROAD COMPANY

v.

THE UNITED STATES

Order

On April 3, 1957, further proceedings in this case were suspended and a referral to the Interstate Commerce Commission was ordered so that the Commission could make a determination "in aid of court litigation" as to the proper charges to be applied to the shipments involved in this suit, the court having found that this case warranted such a procedure. *United States* v. *The Western Pacific Railroad Co.*, 352 U.S. 59; *T.I.M.E. Inc.* v. *United States*, No. 68, October 1958 Term, Supreme Court, decided May 18, 1959.

On November 12, 1958, the Interstate Commerce Commission determined that as to certain shipments in issue the rates urged by the plaintiff were unjust and unreasonable, while as to others the rates were just and reasonable.

On March 23, 1959, the defendant on the basis of the Interstate Commerce Commission determination moved to vacate the suspension of proceedings and for judgment in accordance with the Interstate Commerce Commission determination which judgment would provide for recovery of $1,663.39 by plaintiff in satisfaction of all claims set forth in the petition. On May 27, 1959, plaintiff filed its opposition to this motion urging that proceedings here be continued in suspension pending a district court decision on its petition to enjoin, set aside and annul the Interstate Commerce Commission determination made on referral by this court. Such a procedure we find inapplicable here. See cases cited, *supra*.

NOW, THEREFORE, IT IS ORDERED this fifth day of June, 1959, that defendant's motion to vacate the suspension of proceedings be and the same is granted, and

IT IS FURTHER ORDERED on the basis of the record made in this case, including the determination by the Interstate Commerce Commission, that judgment be and the same is entered for plaintiff in the sum of one thousand six hundred sixty-three dollars and thirty-nine cents ($1,663.39).

BY THE COURT

MARVIN JONES
Chief Judge